

‘Begetting offspring’

Marital duty and ambiguous gender in the early eighteenth century

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In June 1714, Johan Helin, the parish priest of Nöbbele in southern Sweden, wrote to the cathedral chapter in Växjö. He had tried to do his pastoral duty by persuading a married couple, a tailor called Johan Jonsson and his wife Ingrid Fridtzdotter, to overcome their differences. However, after questioning both husband and wife, Helin said he was ‘sensible’ to something else behind their dispute, and he concluded the reason was that the husband could not do his marital duty, as he was, as Helin put it, ‘wholly incapable’. The priest added that he saw no prospect of the couple being persuaded to ‘build a marriage with each other’, and therefore was submitting the matter to the cathedral chapter for their consideration.¹ In this essay, we will become acquainted with the couple and the reasons for their marital discord, the ecclesiastical and secular authorities’ responses, and the question of whether they should be allowed to divorce.

In Sweden it was not forbidden to divorce at the time: there were legal reasons such as adultery, deliberate abandonment, or an inability to have sex, while other reasons, such as the ‘unreasonable behaviour’ that later became common, were not in themselves grounds for divorce. The Church did its utmost to persuade unhappy couples, once married, to forgive each other and reconcile.

Complex cases might make their way up to the King in Council and Justitierevisionen (the Council sitting as the Supreme Court), as this case did after it had been heard by the cathedral chapter in Växjö. It

emerged that the husband suspected his wife of adultery, which was the most common grounds for divorce, but it could not be proved. What complicated things was that the couple had been married for six years before their marital problems came to the attention of the authorities, and the man was thought to be a 'hermaphrodite' or 'androgynous'.

Besides the Växjö cathedral chapter's pronouncement, the Supreme Court prepared to hear the case by soliciting the opinions of the Royal Consistory and the Stockholm Consistory. In the end, the Supreme Court sent the case back down the legal hierarchy to the Göta Court of Appeal and Växjö cathedral chapter for new hearings and judicial decisions. The questions were whether the couple should be allowed to divorce, and whether they were to be punished for having wed, even though they knew about the husband's incapacity before the marriage. The context in which these questions were asked was one where marriage was a fundamental social institution that had to be protected from undesirable behaviour of any kind, and where different societal interests met: the Church had an interest in church weddings being the legal basis for marriage, and thus for consent, while the secular arm was more concerned with uniting property and kin and less about the individuals' wishes. At this time, childbearing was still fundamental to the legal ramifications of marriage.² The question of the husband being a hermaphrodite thus had to be addressed. In the sources it was described as an 'unusual case'. In the literature there are a few empirical cases where one spouse's sex was said to be ambiguous or unclear. With the present case study, another piece of the puzzle is added to our knowledge of Sweden's history of marriage and gender.

In legal terms, it was Johan's alleged inability to have sex within marriage which could be grounds for divorce. In Swedish law, sexual incapacity was a legal reason for divorce in the seventeenth century, but an unusual one. In her study of marriage and divorce in the southern province of Småland, Malin Lennartsson gives a clear example of how sexual incapacity did not constitute the direct basis for divorce—the circumstances had to be right for it to be a valid reason. Difficulties that arose since the couple wed were not sufficient ground, unless at the first attempt at intercourse.³ Hanne Marie Johansen notes that in Norway in this period, although the legislation was clear that impotence, like

adultery and abandonment, was grounds for divorce, it was unusual for a marriage to be ended for that reason. In the example she gives, the wife said her husband was ‘uncomfortable with marriage’, but also had a ‘secret illness’—something which was also grounds for divorce, had he had the illness when they wed.⁴ Similarly, in the Scottish legal tradition, marital incapacity was rarely grounds for divorce; instead, adultery was commonest, with abandonment in second place.⁵ Of the late seventeenth-century Scottish cases considered in more detail in Leah Leneman’s survey, some included statements indicating they concerned men with feminine features. In one example, the couple had been married for 15 years and never had intercourse. The husband was described as beardless, he spoke in a light voice ‘like a woman’, and on inspection his genitals were found to be incomplete and without testicles.⁶

Unlike Protestant societies, where adultery and abandonment were the leading reasons, in Catholic Spain the justification for divorce, or rather annulment, was different. Despite the Catholic Church’s ban on divorce, couples still separated. A marriage could also be annulled, which equated to a full divorce. The valid basis for annulling a marriage was an inability to have intercourse, which applied for both women and men. It is interesting to note the cases that came before the courts were not brought by the couples themselves or by reason of their partner’s incapacity; instead, it was usually when a priest tried to force a couple who had separated to live together that the problems appeared. It was not an easy matter to handle legally, especially not for the individuals. Years might have to pass between wedding and separation, and even longer for an annulment.⁷

‘Wholly incapable of marriage’

In the Nöbbele case it was the husband’s sexual incapacity which invalidated the marriage and could constitute grounds for divorce. How was his condition described? In the legal opinions about Johan Jonsson and Ingrid Fridtzdotter’s divorce case, various terms were used to describe what it meant. Inevitably, the husband was described as ‘impotent’. There was talk of ‘the hermaphrodite’ being ‘incompetent’, and that it was forbidden for someone ‘wholly incapable of the fulfilment of his

duty' to consent to marriage. The term 'unamenability' was contrasted with what was expected of individuals entering into marriage, which presupposed their 'amenability to marriage' (amenable in the sense of capable).⁸ Thus the language was one of ability—the person was not able to fulfil their marital duties. When referring to the husband's impotence it was not necessary to mention intercourse; it was spoken of in terms of the marriage. The question was whether 'hermaphrodites were capable of marriage or not'.⁹ There could be no doubt that marriage was predicated on a functioning sex life.

Most opinions about Johan's 'incapacity' were given not by the couple, but by the secular and religious authorities when describing the situation. At one point, Johan himself commented on his situation. When questioned by the cathedral chapter, he was asked if he had 'had intercourse with her' since they were wed, to which he answered 'no', and that he could not have either.¹⁰

When Ingrid was asked to confirm her husband was 'incapable of marital duties', she replied that she did not 'wish to speak of it'.¹¹ In subsequent questioning, she said she had wanted to separate for other reasons, but she was forced to seek a divorce because her husband's 'fault' had been discovered.¹² Describing the situation on a later occasion, she said Johan was 'incapable'.¹³ She went no further than that.

The couple's reluctance to discuss their sex life was something they were held accountable for under the law. Ingrid's responsibility in particular was spelled out. She should not have married Johan, and once married she had said nothing. They had lived together for a full six years without the authorities hearing a word about their situation. This was in many ways deceitful, but the Stockholm Consistory noted a mitigating circumstance: the husband could not bring himself to be naked, and that and the wife's modesty meant others had no opportunity to discover what was amiss.¹⁴

The sources did not go into the specifics of why Johan was incapable of marriage. There was talk of something 'wrong', 'nature's fault', and his 'constitution', and it was evidently something to do with his genitals, but there was no further information about what exactly.¹⁵ The case had begun with their parish priest's letter to the cathedral chapter in Växjö, in which he described the husband as 'wholly incapable', but

said nothing explicit about the suspicions he was a hermaphrodite. It was only at the hearing by the cathedral chapter that the question was put directly, and answered.

‘More *sexu feminino* than *masculino*’

In the late seventeenth century, there was great interest in Europe in hermaphroditism, which became a subject of scientific research. In Sweden too there was curiosity about hermaphrodites, both as a figure of thought and in reality.¹⁶ Maja Bondestam refers to a married couple at the end of the seventeenth century where the wife was a hermaphrodite, in a case the authorities postponed and seem not to have resolved. Other cases relating to physical defects or difficulties in exercising conjugal rights were difficult to assess and were postponed, according to Bondestam.¹⁷ In Johan Jonsson and Ingrid Fridtzdotter’s case the opposite was true; it was brought before various ecclesiastical and secular instances, the couple were questioned several times, and he underwent physical examinations twice.

Hermaphrodite was the term used most frequently to describe Johan’s ‘constitution’, but ‘hermaphrodite or androgyne’ were used occasionally, and once ‘androgyne’ on its own.¹⁸ The terms may have been thought synonymous, but equally the ‘or’ might have been a sign of their uncertainty about what was ‘wrong’ with the husband. It is worth noting that it was on the last occasion, after Johan had been examined by two surgeons, that the court clerk noted in the margin that he was an ‘androgyne’.¹⁹

At the hearing by Växjö cathedral chapter, the couple were closely questioned about where the husband had been christened and by whom, what had been said at their betrothal, where the banns had been called and by whom, and who had performed their marriage.²⁰ The subtext was the husband should have been examined before the wedding, which the cathedral chapter noted had been missed: he should have undergone an ‘inspection’ to see if he was ‘capable of marriage or not, and which sex prevailed in him’.²¹

After his physical examination it was recorded that Johan ‘resembled more *sexu feminino* than *masculino*’.²² There was no question of inves-

tigating or genderizing his behaviour or appearance, nor was there any indication he behaved in an unmasculine or feminine manner. Instead, the only concern was his genital, sexual capabilities: that was what the authorities wanted to determine.

At the cathedral chapter hearing in Växjö, Johan had been examined by a surgeon, but the Stockholm Consistory said that was not sufficient basis for a decision and the professional opinion of two surgeons was needed. It was said to be necessary because the case was so unusual, but also, since both wanted a divorce because they were tired of each other, there was a suspicion they had colluded in inventing an excuse.²³ Bondestam, referring to a handful of legal cases between the late seventeenth century and the nineteenth century, argues that statements by midwives or local priests were increasingly thought insufficient, and medically trained experts were brought in to give their opinion. There were few cases, though, and there are only rudimentary descriptions of the early ones in particular.²⁴ The present case study represents a shift in chronology, as it shows that in the early eighteenth century experts were already being consulted in divorce cases (in the highest courts, at least) to judge whether one of the parties was a hermaphrodite or not.

An important factor in how Johan's case was handled, bearing out the literature, was that the Stockholm Consistory found that being a hermaphrodite was not a crime *per se*. Further, it found it was not criminal for a hermaphrodite to marry; under certain circumstances it should be allowed, and for that reason no one involved could be considered criminal.²⁵

The literature has examples of people apparently left to determine their own gender or switch between genders, and that this was tolerated by the community.²⁶ The Royal Consistory's legal opinion included an interesting passage about its views on the possibility of changing sex. At an earlier hearing in Växjö, questions had been asked about Johan's age. He was then 26 and so would have been about 20 when they wed.²⁷ The Royal Consistory said that since he was 'somewhat advanced in years, there is no hope in sight that he can later acquire a greater resemblance to *sexu masculino* than *feminino*.'²⁸ This implied they thought a young person could acquire male genitalia as they developed physically. Bondestam gives an example where there seems to have been a view

of sex and gender as open to change: a woman who over the years had increasingly become a man, in a gender shift that seems to have been accepted by those around her.²⁹

A central issue in deciding Johan and Ingrid’s divorce was whether they had entered into marriage voluntarily and she had been aware of his impotence before they married. The Växjö cathedral chapter concluded that was indeed the case, and thus their punishment ought to be remaining bound by marriage, so they would not be granted a divorce.³⁰ However, according to the Stockholm Consistory there was a flaw in that argument, and, in arguing that the couple should be allowed a divorce, it made much of the wife’s need for an ‘enjoyable’ marriage. If she were not allowed a divorce, ‘the pleasures of the sinful flesh’ would be kindled, and she would face ‘temptations and anguish.’³¹ It seems in this case they did not even consider there could be attraction or a sexual relationship between Ingrid and Johan, because he was predominantly ‘*sexu feminino*’. Instead, Ingrid would have to resort to having sex with another man, or abstain completely.

Since Johan was otherwise considered a man, there seems to have been no notion that the couple might have a same-sex relationship. There are examples in the literature of women apparently in same-sex relationships in the early modern period. Women had relationships with women; women in the guise of men married women. In Sweden, the courts were not interested in whether there were erotic motives behind such marriages; in their sentencing they concentrated on other factors, such as bigamy, deception, and the women ‘making a mockery of the marriage ceremony’. What had to be protected was marriage as an institution.³² The approach was to remain silent, and same-sex sexuality went largely unremarked, following the dictum that it was better to handle cases individually as they appeared in the courts than to legislate against ‘the sins of Sodom’ and so spread knowledge of their existence. It was ‘better to silence’ them.³³

‘Illegal carnal intercourse before the wedding’

The Stockholm Consistory said that to punish Ingrid for entering into marriage despite knowing about Johan’s ‘constitution’ was to admit that betrothed couples should have sex before marriage. Even though Ingrid, when questioned, had finally admitted she knew about Johan before they married, if she were punished it would be a reason ‘to excuse illegal carnal intercourse between the betrothed before the wedding.’³⁴

Procreation was still fundamental to marriage. The authorities asserted it was a church wedding and not sexual intercourse which constituted a legally binding marriage, and although the Church could not shut its eyes to people having sex before marriage, at least once they were engaged, equally it did not want to encourage such behaviour.

‘A mockery of the married state’

It was not Johan and Ingrid who took their case to court on the basis of his sexual incapacity, however; it was their marital strife which persuaded their parish priest to act, in accordance with the Church’s mission to mediate between spouses and try to ensure that they lived according to the rules of society and the biblical commandments. However, compared to the other grounds for divorce, sexual incapacity was rare. It might have been that sexual incapacity or lack of desire lay behind the more usual adultery, but, if so, adultery was still the focus, and even then forgiveness, not divorce, was what was expected. Even in cases of abandonment, sexual incapacity could be the reason. In the present case there were accusations of adultery—that the wife had been unfaithful with other men, and that was what had triggered the couple’s estrangement. However, as long as it could not be proved, it was not a valid reason. There was a high burden of proof in all the courts which heard adultery cases.³⁵

Marriage was a contract, and for the Church consent was central. Even in an arranged marriage, the woman had agency and in theory entered into the relationship voluntarily. Once married, spouses were responsible for working on their marriage and building a functioning life together.³⁶

The consistories’ legal opinions were harsh verdicts on the couple’s behaviour. Views differed on the question of whether Ingrid and Johan should be granted a divorce and whether punishment was called for. The consistories allocated responsibility differently too. The Royal Consistory commented that it was forbidden to consent to something on false premises; consent under such circumstances was criminal, because of the deception. The couple had intentionally ‘abused God’s word’ at their wedding: they had ‘made a mockery of marriage’, ‘frustrated ... the pastoral office’, and ‘vexed’ the parish, and therefore ought to be punished.³⁷

Växjö cathedral chapter said that by entering into marriage, the couple had consented to live together, but that they had abused God’s word at the wedding ‘because they allowed wishes for offspring’. They had angered the parish and failed themselves and especially the pastoral office. The greatest betrayal though, according to the chapter, was the wife’s.³⁸ Although the Stockholm Consistory also underlined the ‘vicious abuse, deceit, and vexation that has followed on this worthless marriage’, it downplayed the wife’s responsibility. The wife had based her consent on the hope that their marriage would be ‘enjoyable’, but did so out of ‘innocent ignorance’ of what her husband’s ‘constitution’ really was. She had thus not given her consent out of ‘intentional anger and deceit, but out of simple ignorance in such a rare case’.³⁹

‘She promised to live content with him’

If it was the case that Ingrid knew Johan did not have the same sexual capacity as other men, we may ask why she chose to marry him anyway. The answers she gave were tailored to the circumstances and presented her in the best light possible. At first, she denied knowing before the wedding that her husband could not have intercourse. When asked a direct question at one of the original hearings in Växjö, she told the cathedral chapter he had not said anything about it. It was only later, after it was proved to the contrary, that she admitted she knew how things stood even before the wedding.⁴⁰ According to witnesses, at their betrothal she had first said she only ‘perhaps’ wanted him because he was not ‘capable of marriage’, but when confronted by the local regimental clerk Ingerman’s view that it were best to go their separate ways, because

they would have difficulties later, she had insisted that ‘it had to happen’. The witnesses to the betrothal were two lay judges, and they admitted the situation was known—‘there was gossip’—but they did not take any responsibility, referring to the fact it was Ingrid’s choice not to ‘receive the gifts, if she was not happy with him’.⁴¹

When Ingrid made her case for a divorce, it was her husband’s behaviour she gave as the main reason, not his inability to have intercourse. At the first cathedral chapter hearing, she was asked if ‘Johan Jonsson was incapable of marriage’, and according to the court record she had answered evasively ‘that she did not wish to speak of it’. Instead, she singled out his constant bickering as the reason she wanted ‘to be quit of him’.⁴² It was his daily behaviour that Ingrid returned to whenever she was asked why she wanted a divorce; that, and he had started to drink heavily.⁴³ We may ask why she did not argue his sexual incapacity was grounds for divorce. That, after all, was what the cathedral chapter homed in on as the reason for their investigation. Quarrels and drunkenness were not sufficient grounds for a divorce, and even though Ingrid may not have known it herself, she surely knew impotence was a valid reason and could have made it her key argument. Perhaps she feared Johan’s accusations that she had been unfaithful would attract attention if she spoke up about their difficulties in their sex life.

Several times during the hearings it was said Ingrid did not view her husband’s sexual incapacity as a problem per se, that she could live ‘content’ with him despite it, and that she wanted to ‘put up with him’. To the direct question of whether, if they were divorced, she would marry someone else, she equivocated—‘I leave it in God’s hands’—and later at the same hearing said she would be ‘content’ even if she remained unmarried.⁴⁴

Little more is forthcoming about Ingrid. There is no mention of her parents or relatives in the court records. When she met Johan, she was working as a maid for a Captain Rosenbielke, who played a mediating role when the couple married. In this period, a bride still had to have a *giftoman* (marriage guardian) to arrange the marriage and give her away, and in the absence of parents an employer could stand in. Rosenbielke was said to have ‘advised’ Johan to ‘take her’. Rosenbielke himself tried to play down the part he played, however, and when questioned he explained the case as he saw it: the couple had fallen out when Johan

suspected she was unfaithful.⁴⁵ It is interesting to note that Ingrid was generally called ‘the woman’ rather than ‘the wife’ in the documents, a sign that her social position was low.⁴⁶ Perhaps there were already strong, if unproven, suspicions that Ingrid had been unfaithful to Johan.

‘Now she has clothes on her back’

Johan was not communicative about why he had wanted to marry Ingrid. He said at one point the reason was ‘he would have her help’ and that he did it on his own initiative, despite his family’s opposition. Johan was a tailor and may have needed a wife by his side to run his business and household.

As we have seen, much of the concern at the hearings was with what Johan had told Ingrid before the wedding. Johan claimed Ingrid had wanted to marry him, even though she knew of his ‘natural faults’, and it was because she ‘was poor’.⁴⁷ He had given her gifts which she had accepted, and she would not have needed to if she did not want him. He also claimed he had tried to dissuade her, but she ‘said she wanted to kill herself, if he did not want to consummate marriage with her.’⁴⁸ Johan’s godmother Lisbet Håkansdotter supposedly tried to dissuade Ingrid from marrying him.⁴⁹

No doubt they both had strong materialistic reasons to marry, and nowhere in the sources is there any indication of any particular depth of feeling between them when they married. Once they had fallen out, Johan’s statements reeked of bitterness at having been exploited: she had married him because she was poor and knew that his craft would provide an income, ‘but now she has clothes on her back, she spurns him’.⁵⁰

Both Johan and Ingrid were asked about their motives at the Växjö hearing, but when the cathedral chapter concluded they could not decide the matter and had to refer it to the King in Council and the Supreme Court, it was Ingrid alone who was the priority:

Whereas the woman Ingrid now plainly confessed to knowledge of Johan’s constitution before the wedding, and even so claimed marriage to him; therefore the matter is humbly referred to His Majesty’s Supreme Court.⁵¹

‘Aught prejudicial in these proceedings’

The case of the tailor Johan Jonsson and Ingrid Fridtzdotter’s marriage had gone from the parish priest reporting their problems, via witness statements and hearings by the cathedral chapter in Växjö and later the Supreme Court, which in addition to the Växjö cathedral chapter’s pronouncement took up legal opinions from the Royal Consistory and the Stockholm Consistory before passing judgement. The legal opinions differed on the appropriate consequences for the couple: divorce or not, one party punished or both, or no punishment. The Växjö cathedral chapter was inclined to hold the wife more accountable, both for having entered into marriage and for not raising the alarm when it was evident their sex life was not working, and the cathedral chapter could envisage the couple remaining married as punishment. The Stockholm Consistory considered they should be allowed to divorce, but disagreed on whether further punishment was appropriate: there were mitigating circumstances, and a danger associated with making the wife criminally accountable, especially given the consequences of the Church encouraging sex before marriage.

The wording of the Supreme Court’s records can be taken to mean they found it a difficult decision. It was noted some of its members were not present at the sitting, and there were to be further investigations to check if there was ‘aught prejudicial in these proceedings’. However, the record stated that the Supreme Court, instead of deciding or letting the case drop, referred the matter of the divorce back to the cathedral chapter. First, however, a decision was required about whether to punish the husband, and that fell to a secular court. The Supreme Court, which judged it was the husband who should be punished—‘for how he disappointed this woman’—therefore referred it to the Göta Court of Appeal, which was asked to ensure the case was heard and that the husband was examined by two surgeons.⁵²

The records of the Göta Court of Appeal note this was done and that the district court dealt with the case.⁵³ The surgeons confirmed what had been found at previous hearings—the husband had ‘more resemblance to *sexu feminino* than *masculino*’—and the district court found that the wife would have known about this at the wedding. At the district

court hearing, new information was presented which changed the complexion of the case and overturned the previous decisions. According to the records of the Court of Appeal, it turned out the couple had had some form of sexual intercourse, and the ‘4 times they had intercourse together, she said she was satisfied’. The husband had thus believed he could fulfil his marital duties. Further, it was noted he had been given a male name at the font and ‘every day has been taken for a male person’. Thus, the district court said, it could not be concluded that the husband had ‘misled his wife Ingrid Fridtzdotter into an unseemly marriage’. Nor, it ruled, was there any reason to punish the husband for abusing God’s word or for contempt for the clergy.

Further new information had emerged about Ingrid. She was said to be pregnant, having ‘practised carnal intercourse’ with a farmhand named Nils Hane. Although Hane admitted he had had intercourse with her, he denied being the child’s father, and at the very least wanted to wait until the child was born to see if the birthday tallied with the ‘date of fornication’. As it was a case of simple adultery, the district court postponed the matter until the next opportunity, the summer sitting. Due to the wife’s alleged adultery, there was reason for a divorce on legal grounds, and so most of the previous discussions about whether the couple should be allowed to divorce were redundant, even though it was such a long time since they had married.

The Court of Appeal confirmed the district court’s judgement, and decided that ‘the tailor Johan Jonsson in this case is acquitted from punishment’. The surgeons who examined his genitals seem to have come to the same conclusion as the previous examination, but as Johan was now known to have been unaware he might be thought anything other than a man, and not least because he and Ingrid had sex on several occasions, he was acquitted. It is interesting to note the Court of Appeal now chose the term ‘androgynous’ over ‘hermaphrodite’. The name of the case was given in the margins of the court record as ‘Johan Jonsson and his wife Ingrid Fridtzdotter about discord in marriage, that he is an androgynous.’⁵⁴ That may have been the wording because it was now judged his genitalia were more feminine than masculine, but in everything else Johan behaved like a man, and was thought of by himself and others as a man.

‘There was gossip’

In this essay, we have become acquainted with a divorce case from rural Sweden, which passed through several ecclesiastical and secular courts. Each had difficulty handling the case within the existing legal framework for marriage and divorce, and therefore came to different conclusions about whether the couple should be granted a divorce and whether one or both should be punished or not. As a case study, it confirms what the literature argues: that in the event of ‘sexual incapacity’ affecting a marriage, it was rare for the couple to take their case to court, and it was other factors which made their difficulties with sex and having children public. In the Nöbbele case, the focus was on the husband and his genital ‘capacity’, not his behaviour or general appearance. Hermaphroditism was known of, and as it was not criminal it was not obvious it was the husband who was at fault. The wife’s responsibility was at least as great if not greater than her husband’s; something seized on by the lower courts, where the spouses’ social status may also have played into the courts’ findings.

The wife was suspected of adultery, which according to the husband had created the rift between them. Adultery ultimately decided the case. It is possible his suspicions were shared by the community and the cathedral chapter and other courts, as they were mentioned in the court record and legal opinions, even though they could not be proven by witnesses. Ingrid Fridtzdotter was often referred to as ‘the woman’, and there are other indications her social position was weak: no parents or relatives were mentioned and she was said to have married because she was ‘poor’. When, because of her pregnancy, it was finally determined she was guilty of adultery, the matter was settled. She was the guilty party, and as it was adultery she could never remarry, though she could live as a divorcee with her illegitimate child.

Johan Jonsson may not have belonged to the social elite, but his position seems to have been stronger than Ingrid’s. As a tailor he had an occupation, there were references to his relatives in the court record, and he behaved throughout as the man he was thought to be, even though ‘there was gossip’. At the Växjö cathedral chapter hearing, Johan had been asked his views on the ban on remarriage if the divorce were

granted. His reply was that he did not want to marry again, ever. As it turned out, he was to be granted a divorce as the innocent party, and it is not known what happened next. The well-wishers at their wedding had hoped in vain for ‘offspring’, and it seems highly unlikely Johan could have children of his own. Yet, as was said during the proceedings, it was not forbidden for ‘hermaphrodites’ to marry, so it is conceivable that a new marriage beckoned for Johan, if he so wished.

Notes

- 1 Landskarivet i Vadstena (Regional State Archives in Vadstena) (VaLA), Domkapitlet i Växjö, Inneliggande handlingar E III:56, Johan Helin till Domkapitlet i Växjö, 30 June 1714.
- 2 Åsa Karlsson Sjögren, ‘Från giftermål till vigsel—från ett till två kött? Om äktenskapet och förståelsen av kön, ca 1650–1800’, *Scandia* 69/1 (2008), 44–6.
- 3 Malin Lennartsson, *I säng och säte: Relationer mellan kvinnor och män i 1600-talets Småland* (diss., Lund 1999), 201–205.
- 4 Hanne Marie Johansen, *Separasjon og skilsmisse i Norge 1536–1909: En familie- og rettshistorisk studie* (diss., Bergen 1998), 222–3.
- 5 Leah Leneman, *Alienated Affections: The Scottish Experience of Divorce and Separation, 1684–1830* (Edinburgh 1998), 16.
- 6 Leneman 1998, 253.
- 7 Edward Behrend-Martinez, *Unfit for marriage: Impotent spouses on trial in the Basque region of Spain 1650–1750* (Reno & Las Vegas 2007), 125–6. In Spain in the period, it was known for boys to be castrated by having one or both testicles surgically removed. It was forbidden for eunuchs to marry, although clearly they did so anyway. Behrend-Martinez also has the example of a marriage that was stopped, because one of them was a hermaphrodite—the person’s genitalia (both deformed) were described with distaste by the examining physician.
- 8 Riksarkivet (Swedish National Archives), Stockholm (RA), Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Hovkonsistoriets utlåtande till Justitierevisionen, 17 Sept. 1715.
- 9 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Växjö domkapitel till Justitierevisionen, 9 Aug. 1715,
- 10 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 15 Dec. 1714.
- 11 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 30 June 1714.
- 12 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 15 Dec. 1714.
- 13 VaLA, Domkapitlet i Växjö, Protokoll, AI:13, Protokoll Växjö domkapitel, 27 July 1715.
- 14 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Stockholms konsistoriums utlåtande till Justitierevisionen, 15 Oct. 1715.
- 15 Ibid.

- 16 Maja Bondestam, *Tvåkönad: Studier i den svenska hermafroditens historia* (Nora 2010), 50–1. An example of this interest was the examination question set in 1697 by Lars Roberg, an Uppsala professor, which asked if a short, undeveloped penis was grounds for divorce (Bondestam 2010, 87); Jonas Liliequist, ‘Kvinnor i manskläder och åtrå mellan kvinnor’, in Eva Borgström (ed.), *Makalösa kvinnor: Könsöverskridare i myt och verklighet* (Gothenburg 2002), 99.
- 17 Bondestam 2010, 88.
- 18 ‘Hermaphrodite’ was used thirteen times, ‘hermaphrodite or androgyne’ four times, and ‘androgyne’ once.
- 19 VaLA, Göta hovrätt, Huvudarkivet, BIIa:25, 86, Protokoll Göta Hovrätt, 26 Apr. 1716.
- 20 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 15 Dec. 1714. The couple are not mentioned in the parish registers from Nöbböle or Bergunda, but the records are somewhat patchy and there are signs some marriages were omitted.
- 21 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Växjö domkapitel till Justitierevisionen, 9 Aug. 1715.
- 22 Ibid.
- 23 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Stockholms konsistoriums utlåtande till Justitierevisionen, 15 Oct. 1715.
- 24 Bondestam 2010, 106.
- 25 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Stockholms konsistoriums utlåtande till Justitierevisionen, 15 Oct. 1715.
- 26 Bondestam 2010.
- 27 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Växjö domkapitel till Justitierevisionen, 9 Aug. 1715.
- 28 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Hovkonsistoriets utlåtande till Justitierevisionen, 17 Sept. 1715.
- 29 Bondestam 2010, 107.
- 30 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Växjö domkapitel till Justitierevisionen, 9 Aug. 1715.
- 31 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Stockholms konsistoriums utlåtande till Justitierevisionen, 15 Oct. 1715. The records of the Stockholm Consistory show they agreed the couple should be granted a divorce, but disagreed on whether further punishment in the form of public penance was appropriate. Stockholms stadsarkiv (Stockholm City Archives) (SSA), Stockholm domkapitel, Protokoll, AI:67, Protokoll Stockholms konsistorium, 5 Oct. 1715.
- 32 Fredrik Silverstolpe, ‘Kvinnor i mansdräkt’, in id. et al. (eds), *Sympatiens hemlighetsfulla makt: Stockholms homosexuella 1860–1960* (Stockholm 1999), 32; Svante Norrhem, Jens Rydström & Hanna Markusson Winkvist, *Undantagsmänniskor: En svensk HBTQ-historia med utblickar i världen* (rev. edn, Stockholm 2015), 86–7, 94–5.
- 33 Diskussion i lagkommissionen 1699, quoted in Fredrik Silverstolpe, ‘Praxis och teori 1726–1864’, in Silverstolpe et al. 1999, 36.
- 34 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Stockholms konsistoriums utlåtande till Justitierevisionen, 15 Oct. 1715.
- 35 Ivar Nylander, *Studier rörande den svenska äktenskapsrättens historia* (diss., Stockholm 1961), 22–31.

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- 36 Karlsson Sjögren 2008, 44–6.
- 37 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Hovkonsistoriets utlåtande till Justitierevisionen, 17 Sept. 1715.
- 38 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Växjö domkapitel till Justitierevisionen, 9 Aug. 1715.
- 39 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Stockholms konsistoriums utlåtande till Justitierevisionen, 15 Oct. 1715.
- 40 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 15 Dec. 1714; VaLA, Domkapitlet i Växjö, Protokoll, AI:13, Protokoll Växjö domkapitel, 27 July 1715.
- 41 RA, Nedre justitierevisionen, Utslagshandlingar, 10 Sept. 1715, Hovkonsistoriets utlåtande till Justitierevisionen, 17 Sept. 1715.
- 42 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 30 June 1714.
- 43 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 15 Dec. 1714.
- 44 VaLA, Domkapitlet i Växjö, Protokoll, AI:13, Protokoll Växjö domkapitel, 27 July 1716.
- 45 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 30 June 1714.
- 46 She is occasionally mentioned by name, a couple of times as *piga* (maid), 25 times as *kvinnna* or *kvinnsperson* (woman), and 16 times as *hustru* (wife).
- 47 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 12 Jan. 1715.
- 48 VaLA, Domkapitlet i Växjö, Protokoll, AI:13, Protokoll Växjö domkapitel, 27 July 1715.
- 49 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 15 Dec. 1714.
- 50 VaLA, Domkapitlet i Växjö, Protokoll, AI:12, Protokoll Växjö domkapitel, 12 Jan. 1715.
- 51 VaLA, Domkapitlet i Växjö, Protokoll, AI:13, Protokoll Växjö domkapitel, 27 July 1715.
- 52 RA, Justitierevisionens protokoll, 2 Dec. 1715; RA, Justitierevisionens registratur, 2 Dec. 1715.
- 53 The records of the district court have not been localized, and instead the analysis is based on the records of the Göta Court of Appeal, which refer to the district court’s hearing.
- 54 VaLA, Göta hovrätt, Huvudarkivet, BIIa:25, 86, Protokoll Göta Hovrätt, 26 Apr. 1716.